

**COMMONWEALTH OF MASSACHUSETTS**  
**before the**  
**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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**Competitive Market Initiatives**

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**D.T.E. 01-54A**

**ANSWER IN OPPOSITION OF STRATEGIC ENERGY  
TO MOTION FOR RECONSIDERATION AND CLARIFICATION  
OF THE ATTORNEY GENERAL OF MASSACHUSETTS**

**1. INTRODUCTION**

On October 15, 2001, as the result of a formal investigation of competitive market initiatives, the Department of Telecommunications and Energy (“Department”) issued Order D.T.E. 01-54A (“Order”) directing all distribution companies to release historic monthly billing information of customers receiving standard offer or default service. On November 5, 2001 the Attorney General of Massachusetts (“AG”) filed a Motion for Reconsideration and Clarification (“Motion”). Specifically, the AG moved to reconsider the decision to release historic billing information on the grounds that:

“[t]he Department’s decision to create an exception to its own consumer protection regulations in order to enhance the marketing advantages of competitive suppliers does not meet the balancing test for a ‘good cause’ exception, is not consistent with the clearly articulated consumer protection provisions of the Act, and is not grounds for a “good cause” exception to the regulatory requirements of 220 C.M.R. § 11.05(4).”

Strategic Energy L.L.C. (“Strategic Energy”) requests that the Department deny the AG’s Motion because (1) no new information is being brought forward, (2) the Order is within the guidelines of M.G.L Chapter 164 and (3) no unreasonable “marketing advantages” are being awarded in the Order.

## **2. COMMENTS**

Strategic Energy, a licensed competitive supplier, requests that the Department deny the Motion of the Attorney General of Massachusetts for Rehearing and Reconsideration of Order D.T.E. 01-54A for the following reasons.

- 1) The AG, along with many other stakeholders, had ample opportunity to participate and comment in the formal proceedings on Competitive Market Initiatives that lead to the Order.

The AG filed comments to the Department pursuant to the proceedings, and many of the recommendations made were accepted. In its Motion the AG is providing no information that has not already been brought forth during the proceedings.

- 2) The Restructuring Act requires the Department to protect consumers by, among other measures, establishing licensing procedures and a “code of conduct” for competitive suppliers.

Strategic Energy strongly urges the Department and the AG to monitor competitive suppliers’ compliance with state laws and regulations as the best method to ensure consumer information is not misused. However, a reasonable level of customer information is needed in order for licensed competitive suppliers to bring retail services to consumer in a cost-effective manner.

The Department’s Order authorizing a limited release of consumer billing data under the strict guidelines imposed is both consistent with the consumer protections in M.G.L c. 164 § 1F (7)

and the instructions in M.G.L c. 164 § 1F (3)(i) that the Department “promote effective competition.”

- 3) The AG’s contention that competitive suppliers will receive “marketing advantages” is a distortion of the purpose of the Order. Competitive suppliers will receive no individual marketing advantages because any information will be provided equally to all licensed suppliers who must then more aggressively compete for customers. The true marketing advantages will accrue to consumers in Massachusetts who will be offered more and better choices.

### **3. CONCLUSION**

After careful consideration with input from multiple commentors and intervenors the Department in D.T.E 01-54A has struck a reasonable balance between the need for consumer protection and the need for consumer choice. The AG has brought no new information to the debate. For these reasons, and those expressed above, Strategic Energy requests that the Department deny the Motion for Reconsideration and Clarification.

Respectfully submitted,

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